

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Appellants:**

Masahiro YAMAMOTO, *et al.*

Serial No.: 10/788,720

Filed: 27 February 2004

Title: SHIFT CONTROL SYSTEM IN BELT-TYPE  
CONTINUOUSLY VARIABLE TRANSMISSION

Group Art Unit: 3682

Examiner: V. Johnson

Attorney Docket No.: KIOI:039

Confirmation No.: 6791

**VIA EFS-WEB**

05 December 2008

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

**REPLY TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**  
**& REQUEST FOR RECONSIDERATION**

Sir:

In reply to the Notice of Non-Compliant Appeal Brief dated 24 November 2008, appellants submit an Amended Appeal Brief. This reply is timely. No fee is due. The Commissioner, however, is authorized to charge any additional fees required to maintain pendency of this application or credit any overpayment to Deposit Account No. 18-2056.

REMARKS

Appellants timely filed an Appeal Brief on 24 January 2008. In response, the PTO issued a Notice of Non-Compliant Appeal Brief because it does not comply with Rule 41.37(c)(1)(v). Specifically, upon telephonically discussing the non-compliant section with examiner Vicky Johnson, and her SPE Richard Ridley, it was determined that the Appeal Brief is likely non-compliant because the Summary section does not refer to the specification by line numbers, but rather by paragraphs. The Amended Appeal Brief now refers to the line number instead of paragraphs. Note also that only claim 1 needs to be addressed since only claim 1 is being appealed.

It should be noted that while the Rule 41.37(c)(1)(v) indeed states that the specification should be referred to by line numbers, paragraph numbers have been accepted in other instances. Indeed, new Rule 41.37(r), which replaces Rule 41.37(c)(1)(v) (effective 10 December 2008), explicitly allows identification of the specification by line numbers or paragraph numbers. See page 32943, **Federal Register** /Vol. 73, No. 112 /Tuesday, June 10, 2008 /Rules and Regulations.

The form of the Status of Claims section, the Status of Amendments section, and the Grounds of Rejection to be Reviewed section also have been revised to fully comply with Rule 41.37. The Claim Appendix section also has been revised to remove the status identifier, namely "Previously Presented," as MPEP §1205.02 explicitly states that the claims must be a clean copy.

All the changes to the Appeal Brief merely relate to improving its form. Appellants submit that the Amended Appeal Brief fully complies with Rule 41.37. Accordingly, appellants request that the Amended Appeal Brief be forwarded to the examiner for the Examiner's Answer.

Respectfully submitted,

ROSSI, KIMMS & McDOWELL LLP

05 DECEMBER 2008

DATE

/Lyle Kimms/

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